

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION

DARRELL McCORD,

Plaintiff,

VS.

J. L. SIVLEY, WARDEN and
DR. ROBERT CARDEN,

Defendants.

CV-99-G-1742-E

ENTERED

JUN - 3 2003

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on September 14, 2001, recommending that this action filed pursuant to 28 U.S.C. § 1331 and *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) be dismissed for failure to state a claim upon which relief may be granted with respect to defendant J. L. Sivley and as frivolous and for failure to state a claim upon which relief may be granted with respect to defendant Dr. Robert Carden. The action was subsequently referred back to the magistrate judge for reconsideration of his report and recommendation pertaining to defendant Carden only.

The magistrate judge filed a report and recommendation on May 7, 2003, recommending that defendant Carden's motion for summary judgment be granted and this cause be dismissed with prejudice as against defendant Carden. No objections have been filed by any party.

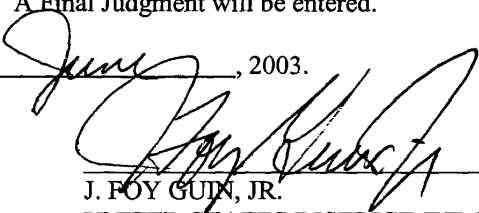
Having carefully reviewed and considered *de novo* all the materials in the court file, including the September 14, 2001 report and recommendation, the Court is of the opinion that the magistrate judge's report with respect to defendant Sivley is due to be and is hereby ADOPTED and the

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recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed for failure to state a claim upon which relief may be granted with respect to defendant J. L. Sivley.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the May 7, 2003 report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact and that defendant Carden is entitled to judgment as a matter of law. Accordingly, defendant Carden's motion for summary judgment is due to be GRANTED and this action is due to be DISMISSED WITH PREJUDICE as against defendant Dr. Robert Carden. A Final Judgment will be entered.

DONE this the 2nd day of June, 2003.



J. FOY GUIN, JR.

UNITED STATES DISTRICT JUDGE